

Senate Study Bill 1216 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
ECONOMIC GROWTH BILL BY
CHAIRPERSON SODDERS)

A BILL FOR

1 An Act relating to offers of suitable work made to certain
2 injured employees and including applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 85.33, subsection 3, Code 2013, is
2 amended to read as follows:

3 3. a. If an employee is temporarily, partially disabled and
4 the employer for whom the employee was working at the time of
5 injury offers to the employee suitable work consistent with the
6 employee's disability, the employee shall accept the suitable
7 work, and be compensated with temporary partial benefits. If
8 the employee refuses to accept the suitable work with the same
9 employer, the employee shall not be compensated with temporary
10 partial, temporary total, or healing period benefits during the
11 period of the refusal. If suitable work is not offered by the
12 employer for whom the employee was working at the time of the
13 injury and the employee who is temporarily, partially disabled
14 elects to perform work with a different employer, the employee
15 shall be compensated with temporary partial benefits. For the
16 purposes of this subsection, work offered to an employee shall
17 be considered suitable work if the work offered meets all of
18 the following requirements:

19 (1) The work offered is reasonably appropriate for the
20 employee's education, training, and vocational experience.

21 (2) The work offered is consistent with the employee's
22 medical restrictions.

23 (3) The work offered does not require the employee to work a
24 substantially different schedule which unreasonably interferes
25 with the employee's customary activities in caring for a
26 dependent. For the purposes of this subsection, "dependent"
27 means a dependent as described in section 85.42 or 85.44.

28 (4) The work is not offered for the purpose of punishing or
29 harassing the employee.

30 (5) The work offered does not require the employee to accept
31 a permanent reassignment to a different job subsequent to the
32 period of temporary disability, provided that once the period
33 of temporary disability ends, this subsection shall not be
34 construed to limit the employer from reassigning the employee
35 to a job consistent with the employee's permanent medical

1 restrictions, if any.

2 b. For the purposes of paragraph "c", "traveling employee"
3 means an employee whose regular job duties regularly require
4 the employee to be away from the employee's residence for
5 extended periods of time.

6 c. For the purposes of this subsection, work offered to a
7 traveling employee shall be considered suitable work if the
8 work offered meets the requirements contained in paragraph "a",
9 subject to the following additional requirements:

10 (1) The geographic location of the work offered to
11 the traveling employee shall be considered in making a
12 determination of whether the work offered is suitable work only
13 if the work offered does any of the following:

14 (a) Requires a commute or other travel beyond the physical
15 capacity of the employee.

16 (b) Requires the traveling employee to spend substantially
17 more time away from the employee's residence than the
18 employee's regular job duties.

19 (c) Interferes with the medical care of the traveling
20 employee for the work-related injury, including but not limited
21 to forcing a change in a health service provider or a delay in
22 medical care or treatment.

23 (2) If an employer offers suitable work to a traveling
24 employee that requires the employee to spend substantially more
25 time away from the employee's residence than the employee's
26 regular job duties, the employer shall notify the employee in
27 writing of the following:

28 (a) The nature of the job duties and physical requirements
29 of the work offered.

30 (b) The geographic location of the work offered, if the
31 location of the work offered will be substantially different
32 than the location of the traveling employee's regular job
33 duties.

34 (c) The possible suspension of temporary partial, temporary
35 total, or healing period benefits if the traveling employee

1 refuses the suitable work offered.

2 (d) The traveling employee's right to file a claim with the
3 workers' compensation commissioner.

4 (3) The employer shall deliver written notice of the
5 suitable work offered to the traveling employee, by mail, or by
6 personal or electronic delivery.

7 (4) Within seven days after the employer mails written
8 notice to the traveling employee of the suitable work
9 offered, or within three days after the employer personally
10 or electronically delivers written notice to the traveling
11 employee of the suitable work offered, whichever is earlier,
12 the employee shall either accept the offer of suitable work or
13 refuse the offer of suitable work, in written or electronic
14 form, stating the basis for the employee's refusal of the
15 suitable work offered, if applicable.

16 (5) If at any time the employer substantially alters the
17 job duties, physical requirements, or location of the suitable
18 work, the employer shall provide the traveling employee with
19 written notice of the proposed alterations and the employee
20 shall accept or refuse the alterations to the suitable work, in
21 written or electronic form, within three days after the notice
22 is delivered, stating the basis for the employee's refusal of
23 the alterations, if applicable.

24 (6) If the traveling employee believes that the suitable
25 work offered is not suitable under this subsection after
26 accepting and engaging in the work, the employee may refuse the
27 work as unsuitable. The employee's right to refuse the work
28 offered as unsuitable is not affected by the employee's initial
29 acceptance of and engagement in the work.

30 (7) If the employer makes an offer of suitable work pursuant
31 to this subsection that requires a traveling employee to
32 commute or travel further than the location of the employee's
33 regular job duties, the employer shall provide the employee
34 with reasonable transportation, overnight lodging, and meals,
35 or with prompt reimbursement for such reasonable travel

1 expenses.

2 d. This subsection shall not be construed to create a new
3 legal claim or cause of action or to extinguish or modify any
4 existing legal claim or cause of action.

5 Sec. 2. APPLICABILITY. This Act applies to offers of
6 suitable work made pursuant to section 85.33, subsection 3, on
7 or after July 1, 2013.

8 EXPLANATION

9 This bill relates to offers of suitable work made by an
10 employer to an employee while the employee is temporarily,
11 partially disabled. The bill specifies what work is considered
12 suitable work for purposes of the statute such that an
13 employee's refusal to accept the work will result in suspension
14 of that employee's weekly workers' compensation benefits during
15 the period of the refusal.

16 The bill provides that in order to be considered suitable,
17 the work offered must be reasonably appropriate for the
18 employee's education, training, and vocational experience;
19 consistent with the employee's medical restrictions; not
20 require the employee to work a substantially different schedule
21 that unreasonably interferes with the care of dependents; not
22 be offered to punish or harass the employee; and not require
23 the employee to accept a permanent reassignment to a different
24 job subsequent to the period of temporary disability, unless
25 such reassignment is necessary due to the employee's permanent
26 medical restrictions.

27 The bill imposes additional requirements for determining
28 whether work offered to an injured traveling employee is
29 suitable. For purposes of the bill, a "traveling employee"
30 is an employee whose regular job duties regularly require the
31 employee to be away from the employee's residence for extended
32 periods of time.

33 For a traveling employee, the geographic location of the
34 work offered shall be considered only if the work requires a
35 commute or other travel beyond the physical capacity of the

1 employee; requires the employee to spend substantially more
2 time away from the employee's residence than the employee's
3 regular job duties; or interferes with the employee's medical
4 care for the work-related injury including forcing a change
5 in a health service provider or a delay in medical care or
6 treatment.

7 If an employer offers suitable work to a traveling employee
8 that requires the employee to spend substantially more time
9 away from the employee's residence than the employee's regular
10 job duties, the employer must notify the employee in writing
11 of the nature of the job duties and physical requirements of
12 the work offered; the geographic location of the work, if the
13 location is substantially different than the location of the
14 employee's regular job duties; the possible suspension of
15 weekly workers' compensation benefits if the employee refuses
16 the suitable work offered; and the employee's right to file a
17 claim with the workers' compensation commissioner.

18 The employer must also deliver written notice of the
19 suitable work offered to a traveling employee by mail, or by
20 personal or electronic delivery. Within seven days after the
21 notice is mailed, or within three days after the notice is
22 delivered personally or electronically to the employee, the
23 employee must either accept or refuse the offer of suitable
24 work, in written or electronic form, including the basis for a
25 refusal, if applicable.

26 If the employer substantially alters the job duties,
27 physical requirements, or location of the suitable work, the
28 employer shall provide the traveling employee with written
29 notice of the proposed alterations and the employee must accept
30 or refuse the alterations, in written or electronic form,
31 within three days of delivery of the notice, including the
32 basis for a refusal, if applicable.

33 If the traveling employee believes that the work offered
34 is not suitable after accepting and engaging in the work, the
35 employee may refuse the work as unsuitable. The employee's

1 right to refuse the work offered as unsuitable is not affected
2 by the employee's initial acceptance of and engagement in the
3 work.

4 If an employer makes an offer of suitable work that requires
5 a traveling employee to commute or travel further than the
6 location of the employee's regular job duties, the employer
7 must provide the employee with reasonable transportation,
8 overnight lodging, and meals, or with prompt reimbursement for
9 such reasonable travel expenses.

10 The provisions of the bill shall not be construed to create
11 a new legal claim or cause of action or to extinguish or modify
12 any existing legal claim or cause of action.

13 The bill is applicable to offers of suitable work made by an
14 employer on or after July 1, 2013.